



Home Office

Home Office Immigration and Nationality Directorate
Appeal under Section 83(2)
of the Nationality, Immigration and Asylum Act 2002

Home Office Reference Number	H1099608
Port Reference Number	
Appellate Authority Reference Number	
Appellant's Name	Fatjon HALIMI
Date Of Birth	15 June 1987
Nationality	Serbia & Montenegro (Serbia)
Place of Detention	

1 Decision

SERVED ON 22-04-03
On 18 April 2003 a decision was made to refuse to grant asylum under paragraph 336 of HC 395 (as amended). Limited leave to remain was granted to 14 June 2005.

2 Immigration History

The appellant arrived in the UK clandestinely and as a minor on 20 January 2003 by lorry and claimed asylum on 7 February 2003.

3 Documents

In accordance with rule 9(1) of the Immigration and Asylum Appeals (Procedure) Rules 2003, the following documents are annexed:

- A. GEN 28 (A1 – A9)
- B. Screening Form (B1 – B4)

Reasons for Refusal Letter dated 18 April 2003.

The following notice(s) dated 22-04-03 are attached informing the appellant of the decisions against which they are appealing.

ICD 1047

4 Appeal

The appellant gave notice of appeal on 01-05-03 against the above decision(s).

Other documents submitted in support of the appeal, as attached, are:

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Signed:



T Hussain
for the Secretary of State

Date: 21/5/03 hussain

AS

PART E: BASIS OF CLAIM FOR ASYLUM

Please state fully why you are seeking Asylum, giving full details of the reasons. Use as many additional pages as you need. Only give details which you consider relevant to your application of:

- Your Religion
- Your ethnic origin
- Political affiliations
- Persecution or harassment which you or members of your family have suffered from a government or other organisation (stating which ones) and giving what you think were the reasons for harassment.
- Any periods which you or members of your family have spent in detention, giving place and dates if known.

If your claim is based on your political activities, you should supply details such as:

- The name of any political organisations with which you have been involved either in the UK or abroad
- When and how your first contact with them took place.
- The nature of your involvement with them, both in the UK and abroad.

You should enclose any evidence you have of your activities, such as membership cards, photographs, press articles etc., (these will be returned to you)

I am of mixed race - ~~be~~ my father
being Roma and my mother being an
ethnic Albanian. We lived in a village of
Orahovic in the Presheva Valley of Serbia.
I was always treated badly - I was
targeted by the Albanians because of my
Roma origin

PART E: CONTINUED

Ab

In November 2000 my father was killed. Armed men came to the village, attacked the people there & burnt some of the houses.

I ran away with my mother - our house was burnt & my father killed.

We went to live in the village of Deylie with a friend of my father called Sokol Abibali. We lived with him, his wife & son (aged 10/11). ^{They were} ~~the~~ ^{also} Roma. We ~~still~~ all still suffered problems because of our origin.

In December 2002 my mother died.

Sokol told me that I had to leave because of the problems of living in Serbia as a Roma. He put me on a lorry which brought me to the UK.

PART E: CONTINUED

I am claiming asylum because of my
anger - being of Rome & Albanian origin

You may add further sheets if you wish.



Home Office

Immigration and Nationality Directorate
Integrated Casework Directorate

Lunar House, 40 Wellesley Road, Croydon, CR9 2BY
Telephone 0870 606 7766 Fax On Request

Fatjon HALIMI

Our Ref H1099608

Date of Birth: **15 June 1987**

Your Ref SS/Halimi

Nationality: **Serbia & Montenegro (Serbia)**

Date 18 April 2003

Dear Mr Halimi

REASONS FOR REFUSAL

1. You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in Serbia. In order to qualify for asylum under the terms of the 1951 Geneva Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. The Secretary of State has considered whether or not you qualify for Humanitarian Protection in accordance with the published Home Office Asylum Policy Instruction on Humanitarian Protection. This is because, you have either asked for Humanitarian Protection, or, you have specifically raised issues under Articles 2, 3 of and/or Protocol 6 to the 1950 Rome Convention for the Protection of Human Rights and Fundamental Freedoms, (commonly referred to as the ECHR) which would constitute a claim for international protection, or, your claimed fear of persecution is such that we have chosen to regard this as a claim for international protection.
3. Furthermore the Secretary of State has considered whether you may be eligible for a grant of limited leave to enter or remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave.
4. As it was possible to obtain by written enquiries or from other sources sufficient information properly to determine your claim, the Secretary of State took the view that in light of paragraph 352 of HC395 it would not be appropriate for you to be interviewed about the substance of your claim.
5. Your claim for international protection is based upon your fear that if returned to Serbia, you would face mistreatment due to your race.
6. The basis of your claim is that you fear persecution from the Ethnic Albanians in Serbia due to your ethnicity. You claim that you lived in Orahovic, in the Presevo

valley with your father who was a Roma and your mother who was an ethnic Albanian. You claim that you were always treated badly by the Albanians because of your Roma ethnicity. You also claim that in November 2000 your father was killed when a group of armed men came to the village and attacked the people and burnt the houses. You ran away with your mother after your father was killed and your house burnt down. You both went to live in the village of Deplic with a friend of your father called Sohol. You lived there with Sohol and his wife and son, they were also Roma. You claim that you all suffered the same problems because of your ethnicity. In December 2002 your mother died. Sohol told you that you had to leave because of the problems of living as a Roma in Serbia. He put you in a lorry which brought you to the UK.

7. The Secretary of State has considered your claim but for the reasons given below has concluded that you do not qualify for asylum or Humanitarian Protection. However, the Secretary of State has decided to exercise his discretion in your favour and grant you limited leave to remain in the United Kingdom in accordance with the published Home Office Asylum Policy Instruction on Discretionary Leave because you are an unaccompanied child for whom we are not satisfied that adequate reception arrangements in your own country are available.
8. You have claimed that as a Roma you will suffer persecution if you are returned to Serbia. However the Secretary of State is aware that the Republic level laws provide for equal rights for all citizens, regardless of ethnic group, religion, language, or social status in Serbia. The Law on the Protection of Rights and Freedoms of National Minorities 2002, approved by the Council of Europe, gives legal protection to minorities equal to that in other European countries and specifically designates the Roma community as a national minority in Serbia. The government has appointed a federal minister for national and ethnic minorities and a team has been established to deal with ethnic minority issues. Taking this into account, the Secretary of State does not believe that you will be persecuted because of your ethnicity and therefore finds your claim to be not well founded. The fact that you did not seek any protection from the authorities before fleeing your country damages the credibility of your claim.
9. Furthermore, the Secretary of State believes that if you were to return to Serbia you would have no reason at all to reveal your ethnicity to other Albanians. You would generally be safe from persecution because of the anonymity, and the fact that you speak Albanian, the Secretary of State believes that you can easily integrate amongst the community.
10. You stated that you moved to Sohol's house after your father died in November 2000 and only left Serbia once your mother died in December 2002. The Secretary of State notes that you did not provide any details of persecution that you suffered in this period. Therefore, he does not believe that you suffered any persecution otherwise you would have left the country at the earliest opportunity. The fact that you left when your mother died seems to suggest that you came to the UK because you had no one to look after you. As such the Secretary of State believes that this is not a Convention reason for granting asylum.
11. The Secretary of State also notes that you provided no information as to how you raised the money for your travel. You claim that Sohol arranged it with the lorry driver to take you away. The Secretary of State does not believe that someone who is not related to you and who also would be suffering persecution because of his ethnicity would pay for you to get to a safe country. If the situation was as bad as you claim than Sohol would have used the money to flee the country himself or sent his family

instead. Taking this into account the Secretary of State does not believe that you were persecuted as you claim.

12. The Secretary of State has given careful consideration to whether you should be allowed to remain in the United Kingdom as a result of Humanitarian Protection under the European Convention for the Protection of Human Rights and Fundamental Freedoms, but he is not satisfied on the information available that your removal would be contrary to our obligations.

Therefore, you do not qualify for Humanitarian Protection.

13. In the light of all the evidence available to him, the Secretary of State has concluded that you have not established a well-founded fear of persecution and that you do not qualify for asylum. Your asylum claim is therefore refused under paragraph 336 of HC 395 (as amended) and has been recorded as determined on 18 April 2003.
14. Furthermore, the Secretary of State is not satisfied on the information available that your removal would be contrary to the United Kingdom's obligations under the ECHR.

If you have not yet taken advice on your position, you are strongly advised to do so now.

Yours sincerely



T Hussain

Integrated Casework Directorate

acting on behalf of the Secretary of State